

## REMARKS

Claims 1-8 are pending in the application. It is gratefully acknowledged that Claims 4-8 remain allowed. It is also gratefully acknowledged that Claim 2 remains objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. The Examiner maintains his rejection of Claim 1 under 35 U.S.C. §102(e) as being anticipated by Ito (U.S. Patent 6,408,039), as well as his rejection of Claim 3 under 35 U.S.C. §103(a) as being unpatentable over Ito. Further, the Examiner has raised a rejection of amended Claim 1, including Claims 2 and 3, under 35 U.S.C. §112, second paragraph, as being indefinite.

Regarding the rejection of Claim 1 under §112, second paragraph, the Examiner states that the claimed limitation “combining the excepted symbol data” is not supported in the specification. It is respectfully submitted that the claim is being incorrectly read as if the combining is done on the symbol data whose sign is inverted. Although this is incorrect, Applicant submits that the claim could theoretically be read as such, and therefore has amended Claim 1 to clarify the claim, as follows: “a symbol combiner for receiving the symbol data from the plurality of fingers, removing excepting symbol data, whose sign is inverted due to fading, from the symbol data received from the plurality of fingers, and combining the remaining excepted symbol data.” Based on at least the foregoing amendments, withdrawal of the rejection of Claim 1 is respectfully requested.

Regarding the rejection of Claim 1 under §102(e), the Examiner states that Ito discloses all of the elements recited in Claim 1. Ito discloses a radio communication apparatus employing a rake receiver. The Examiner states in the Response to Arguments section of the Office Action that “a symbol combiner for combining symbol data except for symbol data whose signs are inverted due to fading among the symbol data received from the fingers” is anticipated by Ito, and goes on to support this with an argument that cannot be supported by Ito, namely that Ito (allegedly) discloses that the symbol combiner only combines the corrected symbols, not inverted symbols. Ito at col. 4, lines 53-55, states that the symbol combiner combines finger symbols output by the searcher/finger units. This is in direct contradiction of the position the Examiner is taking regarding the symbol combiner “only combines the corrected symbols”.

A further distinction between Claim 1 and Ito is as follows. Claim 1 recites that the

symbol data having a sign different from the majority signs from among the symbol data transmitted from respective fingers are excluded from symbol combination; that is, symbol data with a sign which has been inverted is set to "0" to achieve maximum symbol energy. According to Ito, finger symbols output by the searcher/finger units are simply combined, and the phase equalizer compensates for errors of the finger symbols which occur during the transmissions by adjusting the phase of the symbols using the calculating result of the phase calculator. Given this distinction, Ito does not exclude the inverted phase as recited in Claim 1 of the present application, but merely adjusts the phase and compensates for errors during transmissions, so that all the symbols are transmitted without expectation. Furthermore, although Ito mentions the phase is adjusted, it is not disclosed that symbol data with a sign which is determined to be inverted due to deep fading is considered in such an adjustment.

Based on at least the foregoing amendments and distinctions, withdrawal of the rejection of Claim 1 is respectfully requested.

Independent Claim 1 is believed to be in condition for allowance. Without conceding the patentability per se of dependent Claim 3, this is likewise believed to be allowable by virtue of its dependence on its respective independent claim. Accordingly, reconsideration and withdrawal of the rejection of dependent Claim 3 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-8, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



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